IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN INSOLVENCY

INSOLVENCY PETITION NO.20 OF 2004

Re : Janardan Kundlik Kamble & Ors. ...Debtors.
Ex-parte:
Apna Sahakari Bank Ltd. ...Petg. Creditor.

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Ms.Gaonkar for the Petitioning Creditor.
Mr. A.S. Kapse i/b. Mr. Harish R.Pawar for Debtor No.3.

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CORAM : DR.D.Y.CHANDRACHUD, J.

September 19, 2006.

P.C.

The Insolvency Petition is based on an award dated 30th September 1996 passed by the Co-operative Court for a sum of Rs.3,67,802/- together with future interest at the rate of 16% per annum. An Insolvency Notice dated 21st November 2003, was taken out, which was duly served on Debtor Nos.1, 2 and 3 on 4th December 2003, 9th December 2003 and 2nd December 2003 respectively. An application for setting aside the award of the Co-operative Court was taken out and on 3rd February 2005, the award was set aside as against Judgment Debtor No.2.

Consequently, by an order dated 3rd May 2005, this Court disposed of the Insolvency Petition as against Debtor No.2.

Now in so far as Debtor No.1 is concerned, no application for setting aside the award was made. The application taken out by Debtor No.3 was dismissed by the Co-operative Court on 3rd February 2005. The appeal was dismissed by the Appellate Bench of the Co-operative Court on 22nd June 2005. A Writ Petition taken out by Debtor No.3 was dismissed on 10th July 2006 and the Letters Patent Appeal was dismissed by the Division Bench on 12th September 2006. The award of the Co-operative Court thus, attained finality both against Debtor Nos.1 and 3. The award has not been set aside. In these circumstances, an order of adjudication will have to be passed. The act of insolvency was complete. In these circumstances, the petition is made absolute in terms of prayer clause (a) in respect of Debtor Nos.1 and 3.

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